

Subpart A—General**§ 1953.1 Purpose and scope.**

(a) This part applies to the provisions of section 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (hereinafter referred to as the Act) relating to State plans for the development and enforcement of State safety and health standards. The provisions of this part set forth the procedures by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 12-71, 36 FR 8754, May 12, 1971) will review changes in a State plan approved in accordance with section 18(c) of the Act and part 1902 of this chapter, and also provide advisory opinions on proposed changes to be made by a State in implementing its plan.

(b)(1) States may submit plans covering any occupational safety and health issue with respect to which a Federal standard has been promulgated under section 6 of the Act. These plans must meet the criteria in section 18(c) of the Act and part 1902 either at the time of submission or in any event not later than the three year period immediately following commencement of the plan's operation, where the plan is developmental.

(2) The Act provides for discretionary concurrent Federal and State authority during this three year developmental period and until the Assistant Secretary determines on the basis of actual operations that the State is applying the criteria of section 18 of the Act and part 1902. During the period of concurrent Federal and State authority, as well as after a determination has been under section 18(e) that the plan is meeting the criteria of the Act and part 1902, the State plan will be continually evaluated under section 18(f) of the Act as to the manner in which the provisions (including any assurances) are implemented.

(c)(1) In accordance with section 18(c) of the Act the Assistant Secretary is authorized to approve State plans and any modifications to these plans. In submitting plans the States have provided assurances that they will con-

tinue to meet the requirements in section 18(c) of the Act and 29 CFR part 1902 during the time the States participate in the Federal program. Such assurances are a fundamental basis for approval of plans. (See 29 CFR 1902.3(c)(1), (d)(1)). This part establishes procedures for review of those modifications (hereinafter referred to as changes) that are necessary to fulfill the State's assurances, the requirements of the Act, and 29 CFR part 1902. Responsibility for review of changes is a separate function, but related to the exercise of concurrent authority under section 18(e) of the Act and continuing evaluation under section 18(f) of the Act.

(2) Changes to a plan can be separated into several categories. As the State plan is implemented, supplements will be required to meet developmental schedules approved as part of the plan. These developmental step supplements must be completed within three years after commencement of operations under the plan. The development of the Federal program and the continuing evaluation of the State programs will also require that changes be made in the plans. In addition there could be State initiated changes that would have an impact on the effectiveness of the State program.

(d) Because of the States' need to continue an on-going program, this part also provides for advisory opinions to requesting States. These opinions, while not final decisions under the review procedures established in this part will provide the States with a basis for operation pending formal review of a change supplement.

§ 1953.2 General policies.

(a) Approval of a plan submitted under section 18(b) of the Act is based on a finding that the State has or will have, an "at least as effective" program for the enforcement and setting of standards and will meet the criteria in § 1902.3 of the chapter within a three year developmental period when all of the planned activities are performed. The State must also continue to apply the criteria in section 18(c) of the Act and 29 CFR part 1902, as well as comply with the provisions of the plan and any assurances contained therein as long as